

Senate File 406

H-1269

1 Amend Senate File 406, as passed by the Senate, as
2 follows:

3 1. By striking everything after the enacting
4 clause and inserting:

5 <DIVISION I

6 PERSONS WITH INTELLECTUAL DISABILITIES — INVOLUNTARY
7 COMMITMENTS

8 Section 1. Section 48A.2, subsection 3, Code 2013,
9 is amended to read as follows:

10 3. "*Person who is incompetent to vote*" means
11 a person with an intellectual disability who has
12 been found to lack the mental capacity to vote in a
13 proceeding held pursuant to section ~~222.31~~ or 633.556.

14 Sec. 2. Section 222.6, Code 2013, is amended to
15 read as follows:

16 **222.6 State districts.**

17 The administrator shall divide the state into two
18 districts in such manner that one of the resource
19 centers shall be located within each of the districts.
20 Such districts may from time to time be changed. After
21 such districts have been established, the administrator
22 shall notify all boards of supervisors, county
23 auditors, and clerks of the district courts of the
24 action. Thereafter, unless the administrator otherwise
25 orders, all admissions ~~or commitments~~ of persons with
26 an intellectual disability from a district shall be to
27 the resource center located within such district.

28 Sec. 3. Section 222.12, subsection 2, Code 2013, is
29 amended to read as follows:

30 2. Notice of the death of the patient, and the
31 cause of death, shall be sent to the county board of
32 supervisors ~~and to the judge of the court that had~~
33 ~~jurisdiction over a committed patient.~~ The fact of
34 death with the time, place, and alleged cause shall be
35 entered upon the docket of the court.

36 Sec. 4. Section 222.15, subsection 3, Code 2013, is
37 amended by striking the subsection.

38 Sec. 5. Section 222.59, subsection 3, Code 2013, is
39 amended by striking the subsection.

40 Sec. 6. Section 222.60, subsection 1, unnumbered
41 paragraph 1, Code 2013, is amended to read as follows:

42 All necessary and legal expenses for the cost
43 of admission ~~or commitment~~ or for the treatment,
44 training, instruction, care, habilitation, support
45 and transportation of persons with an intellectual
46 disability, as provided for in the county management
47 plan provisions implemented pursuant to section
48 331.439, subsection 1, in a state resource center, or
49 in a special unit, or any public or private facility
50 within or without the state, approved by the director

1 of the department of human services, shall be paid by
2 either:

3 Sec. 7. Section 222.61, Code 2013, is amended to
4 read as follows:

5 **222.61 Legal settlement determined.**

6 When a county receives an application on behalf of
7 any person for admission to a resource center or a
8 special unit ~~or when a court issues an order committing~~
9 ~~any person to a resource center or a special unit,~~ the
10 board of supervisors shall utilize the central point
11 of coordination process to determine and certify that
12 the legal settlement of the person is in one of the
13 following:

14 1. In the county in which the application is
15 received ~~or court is located.~~

16 2. In some other county of the state.

17 3. In another state or in a foreign country.

18 4. Unknown.

19 Sec. 8. Section 222.64, Code 2013, is amended to
20 read as follows:

21 **222.64 Foreign state or country or unknown legal**
22 **settlement.**

23 If the legal settlement of the person is determined
24 by the board of supervisors through the central point
25 of coordination process to be in a foreign state or
26 country or is determined to be unknown, the board of
27 supervisors shall certify the determination to the
28 administrator. The certification shall be accompanied
29 by a copy of the evidence supporting the determination.
30 The care of the person shall be as arranged by the
31 board of supervisors or by an order as the court
32 may enter. Application for admission ~~or order of~~
33 ~~commitment~~ may be made pending investigation by the
34 administrator.

35 Sec. 9. Section 222.67, Code 2013, is amended to
36 read as follows:

37 **222.67 Charge on finding of settlement.**

38 If a person has been received into a resource center
39 or a special unit as a patient whose legal settlement
40 is supposedly outside the state or is unknown and the
41 administrator determines that the legal settlement of
42 the patient was at the time of admission ~~or commitment~~
43 in a county of this state, the administrator shall
44 certify the determination and charge all legal costs
45 and expenses pertaining to the admission ~~or commitment~~
46 and support of the patient to the county of legal
47 settlement. The certification shall be sent to the
48 county of legal settlement. The certification shall
49 be accompanied by a copy of the evidence supporting
50 the determination. If the person's legal settlement

1 status has been determined in accordance with section
2 225C.8, the legal costs and expenses shall be charged
3 to the county or as a state case in accordance with
4 that determination. The costs and expenses shall be
5 collected as provided by law in other cases.

6 Sec. 10. Section 222.68, Code 2013, is amended to
7 read as follows:

8 **222.68 Costs paid in first instance.**

9 All necessary and legal expenses for the cost of
10 admission ~~or commitment~~ of a person to a resource
11 center or a special unit when the person's legal
12 settlement is found to be in another county of this
13 state shall in the first instance be paid by the county
14 from which the person was admitted ~~or committed~~. The
15 county of legal settlement shall reimburse the county
16 which pays for all such expenses. Where any county
17 fails to make such reimbursement within forty-five days
18 following submission of a properly itemized bill to the
19 county of legal settlement, a penalty of not greater
20 than one percent per month on and after forty-five days
21 from submission of the bill may be added to the amount
22 due.

23 Sec. 11. Section 222.69, Code 2013, is amended to
24 read as follows:

25 **222.69 Payment by state.**

26 All necessary and legal expenses for the cost of
27 admission ~~or commitment~~ of a person to a resource
28 center or a special unit when the person's legal
29 settlement is outside this state or is unknown shall
30 be paid out of any money in the state treasury not
31 otherwise appropriated. Such payments shall be made on
32 itemized vouchers executed by the auditor of the county
33 from which the expenses have been paid and approved by
34 the administrator.

35 Sec. 12. Section 222.70, Code 2013, is amended to
36 read as follows:

37 **222.70 Legal settlement disputes.**

38 If a dispute arises between counties or between the
39 department and a county as to the legal settlement of a
40 person admitted ~~or committed~~ to a resource center, a
41 special unit, or a community-based service, the dispute
42 shall be resolved as provided in section 225C.8.

43 Sec. 13. Section 222.78, Code 2013, is amended to
44 read as follows:

45 **222.78 Parents and others liable for support.**

46 The father and mother of any patient admitted ~~or~~
47 ~~committed~~ to a resource center or to a special unit,
48 as either an inpatient or an outpatient, and any
49 person, firm, or corporation bound by contract made
50 for support of the patient are liable for the support

1 of the patient. The patient and those legally bound
2 for the support of the patient shall be liable to the
3 county for all sums advanced by the county to the state
4 under the provisions of sections 222.60 and 222.77.
5 The liability of any person, other than the patient,
6 who is legally bound for the support of a patient who
7 is under eighteen years of age in a resource center or
8 a special unit shall not exceed the average minimum
9 cost of the care of a normally intelligent minor
10 without a disability of the same age and sex as the
11 minor patient. The administrator shall establish the
12 scale for this purpose but the scale shall not exceed
13 the standards for personal allowances established
14 by the state division under the family investment
15 program. The father or mother shall incur liability
16 only during any period when the father or mother either
17 individually or jointly receive a net income from
18 whatever source, commensurate with that upon which
19 they would be liable to make an income tax payment to
20 this state. The father or mother of a patient shall
21 not be liable for the support of the patient upon the
22 patient attaining eighteen years of age. Nothing in
23 this section shall be construed to prevent a relative
24 or other person from voluntarily paying the full actual
25 cost as established by the administrator for caring for
26 the patient with an intellectual disability.

27 Sec. 14. Section 222.80, Code 2013, is amended to
28 read as follows:

29 **222.80 Liability to county.**

30 A person admitted ~~or committed~~ to a county
31 institution or home or admitted ~~or committed~~ at
32 county expense to a private hospital, sanitarium, or
33 other facility for treatment, training, instruction,
34 care, habilitation, and support as a patient with an
35 intellectual disability shall be liable to the county
36 for the reasonable cost of the support as provided in
37 section 222.78.

38 Sec. 15. Section 222.91, Code 2013, is amended to
39 read as follows:

40 **222.91 Direct referral to special unit.**

41 In addition to any other manner of referral, or
42 admission, ~~or commitment~~ to the special unit provided
43 for by this chapter, persons may be referred directly
44 to the special unit by courts, law enforcement
45 agencies, or state penal or correctional institutions
46 for services under ~~subsection 2 of section 222.88,~~
47 subsection 2, but persons so referred shall not be
48 admitted ~~or committed~~ unless a preadmission diagnostic
49 evaluation indicates that the person would benefit from
50 such services, and the admission ~~or commitment~~ of the

1 person to the special unit would not cause the special
2 unit's patient load to exceed its capacity.

3 Sec. 16. Section 232.51, Code 2013, is amended to
4 read as follows:

5 **232.51 Disposition of child with mental illness or**
6 **an intellectual disability.**

7 1. If the evidence received at an adjudicatory or
8 a dispositional hearing indicates that the child is
9 mentally ill, the court may direct the juvenile court
10 officer or the department to initiate proceedings or to
11 assist the child's parent or guardian to initiate civil
12 commitment proceedings in the juvenile court and such
13 proceedings in the juvenile court shall adhere to the
14 requirements of chapter 229.

15 ~~2. If the evidence received at an adjudicatory or~~
16 ~~a dispositional hearing indicates that the child has~~
17 ~~an intellectual disability, the court may direct the~~
18 ~~juvenile court officer or the department to initiate~~
19 ~~proceedings or to assist the child's parent or guardian~~
20 ~~to initiate civil commitment proceedings in the~~
21 ~~juvenile court and such proceedings shall adhere to the~~
22 ~~requirements of chapter 222.~~

23 ~~3.~~ 2. a. If prior to the adjudicatory or
24 dispositional hearing on the pending delinquency
25 petition, the child is committed as a child with a
26 mental illness ~~or an intellectual disability~~ and is
27 ordered into a residential facility, institution, or
28 hospital for inpatient treatment, the delinquency
29 proceeding shall be suspended until such time as the
30 juvenile court either terminates the civil commitment
31 order or the child is released from the residential
32 facility, institution, or hospital for purposes of
33 receiving outpatient treatment.

34 b. During any time that the delinquency proceeding
35 is suspended pursuant to this subsection, any
36 time limits for speedy adjudicatory hearings and
37 continuances shall be tolled.

38 c. This subsection shall not apply to waiver
39 hearings held pursuant to section 232.45.

40 Sec. 17. Section 331.756, subsection 42, Code 2013,
41 is amended by striking the subsection.

42 Sec. 18. Section 602.8102, subsections 36 and 37,
43 Code 2013, are amended by striking the subsections.

44 Sec. 19. REPEAL. Sections 222.16 through 222.33,
45 sections 222.36 through 222.49, section 222.51,
46 and sections 222.54 through 222.58, Code 2013, are
47 repealed.

48 Sec. 20. EFFECTIVE DATE. This division of this Act
49 takes effect July 1, 2014.

50 DIVISION II

1 INVOLUNTARY COMMITMENTS —

2 SUBSTANCE-RELATED DISORDERS AND MENTAL ILLNESS

3 Sec. 21. NEW SECTION. 125.74A Preapplication
4 screening assessment — program.

5 Prior to filing an application pursuant to section
6 125.75, the clerk of the district court or the
7 clerk's designee shall inform the interested person
8 referred to in section 125.75 about the option of
9 requesting a preapplication screening assessment
10 through a preapplication screening assessment program,
11 if available. The state court administrator shall
12 prescribe practices and procedures for implementation
13 of the preapplication screening assessment program.

14 Sec. 22. Section 125.75, Code 2013, is amended to
15 read as follows:

16 125.75 Involuntary commitment or treatment —
17 application Application.

18 1. Proceedings for the involuntary commitment or
19 treatment of a person with a substance-related disorder
20 to a facility pursuant to this chapter or for the
21 involuntary hospitalization of a person pursuant to
22 chapter 229 may be commenced by the county attorney
23 or an any interested person by filing a verified
24 application with the clerk of the district court of
25 the county where the respondent is presently located
26 or which is the respondent's place of residence.
27 The clerk or the clerk's designee shall assist the
28 applicant in completing the application.

29 2. The application shall:

30 ~~1.~~ a. State the applicant's belief that the
31 respondent is a person with a substance-related
32 disorder, who presents a danger to self or others
33 and lacks judgmental capacity due to either of the
34 following:

35 (1) A substance-related disorder as defined in
36 section 125.2.

37 (2) A serious mental impairment as defined in
38 section 229.1.

39 ~~2.~~ b. State any other pertinent facts in support
40 of each belief described in paragraph "a".

41 ~~3.~~ c. Be accompanied by one or more of the
42 following:

43 ~~a.~~ (1) A written statement of a licensed physician
44 in support of the application.

45 ~~b.~~ (2) One or more supporting affidavits
46 corroborating the application.

47 ~~c.~~ (3) Corroborative information obtained and
48 reduced to writing by the clerk or the clerk's
49 designee, but only when circumstances make it
50 infeasible to obtain, or when the clerk considers it

1 appropriate to supplement, the information under either
2 paragraph ~~"a"~~ subparagraph (1) or paragraph ~~"b"~~ (2).

3 3. Prior to the filing of an application pursuant
4 to this section, the clerk or the clerk's designee
5 shall inform the interested person referred to
6 in subsection 1 about the option of requesting a
7 preapplication screening assessment pursuant to section
8 125.74A.

9 4. The supreme court shall prescribe rules
10 and establish forms as necessary to carry out the
11 provisions of this section.

12 Sec. 23. Section 125.75A, Code 2013, is amended to
13 read as follows:

14 **125.75A Involuntary ~~commitment or treatment of~~**
15 **proceedings — minors — jurisdiction.**

16 The juvenile court has exclusive original
17 jurisdiction in proceedings concerning a minor for whom
18 an application ~~for involuntary commitment or treatment~~
19 is filed under section 125.75. In proceedings under
20 this division concerning a minor's involuntary
21 commitment or treatment, the term "court", "judge", or
22 "clerk" means the juvenile court, judge, or clerk.

23 Sec. 24. Section 125.77, Code 2013, is amended to
24 read as follows:

25 **125.77 Service of notice.**

26 Upon the filing of an application ~~for involuntary~~
27 ~~commitment pursuant to section 125.75~~, the clerk shall
28 docket the case and immediately notify a district court
29 judge, a district associate judge, or magistrate who
30 is admitted to the practice of law in this state,
31 who shall review the application and accompanying
32 documentation. The clerk shall send copies of the
33 application and supporting documentation, together
34 with the notice informing the respondent of the
35 procedures required by this division, to the sheriff,
36 for immediate service upon the respondent. If the
37 respondent is taken into custody under section 125.81,
38 service of the application, documentation, and notice
39 upon the respondent shall be made at the time the
40 respondent is taken into custody.

41 Sec. 25. Section 125.78, unnumbered paragraph 1,
42 Code 2013, is amended to read as follows:

43 As soon as practical after the filing of an
44 application ~~for involuntary commitment or treatment~~
45 pursuant to section 125.75, the court shall:

46 Sec. 26. Section 125.79, Code 2013, is amended to
47 read as follows:

48 **125.79 Respondent's attorney informed.**

49 The court shall direct the clerk to furnish at once
50 to the respondent's attorney, copies of the application

1 ~~for involuntary commitment of the respondent pursuant~~
2 ~~to section 125.75 and the supporting documentation,~~
3 ~~and of the court's order issued pursuant to section~~
4 ~~125.78, subsection 3. If the respondent is taken into~~
5 ~~custody under section 125.81, the attorney shall also~~
6 ~~be advised of that fact. The respondent's attorney~~
7 ~~shall represent the respondent at all stages of the~~
8 ~~proceedings and shall attend the commitment hearing.~~

9 Sec. 27. Section 229.5, Code 2013, is amended to
10 read as follows:

11 **229.5 Departure without notice.**

12 If a voluntary patient departs from the hospital
13 without notice, and in the opinion of the chief medical
14 officer the patient is seriously mentally impaired,
15 the chief medical officer may file an application
16 ~~for involuntary hospitalization of~~ on the departed
17 voluntary patient pursuant to section 229.6, and
18 request that an order for immediate custody be entered
19 by the court pursuant to section 229.11.

20 Sec. 28. Section 229.5A, Code 2013, is amended to
21 read as follows:

22 **229.5A Preapplication screening assessment —**
23 **program.**

24 Prior to filing an application ~~for involuntary~~
25 ~~hospitalization~~ pursuant to section 229.6, the clerk
26 of the district court or the clerk's designee shall
27 inform the interested person referred to in section
28 229.6, subsection 1, about the option of requesting
29 a preapplication screening assessment through a
30 preapplication screening assessment program, if
31 available. The state court administrator shall
32 prescribe practices and procedures for implementation
33 of the preapplication screening assessment program.

34 Sec. 29. Section 229.6, Code 2013, is amended to
35 read as follows:

36 **229.6 Application for order of involuntary**
37 **hospitalization.**

38 1. Proceedings for the involuntary hospitalization
39 of an individual pursuant to this chapter or for the
40 involuntary commitment or treatment of a person with a
41 substance-related disorder to a facility pursuant to
42 chapter 125 may be commenced by any interested person
43 by filing a verified application with the clerk of
44 the district court of the county where the respondent
45 is presently located, or which is the respondent's
46 place of residence. The clerk, or the clerk's
47 designee, shall assist the applicant in completing the
48 application.

49 2. The application shall:

50 a. State the applicant's belief that the respondent

1 ~~is seriously mentally impaired.~~ a person who presents a
2 danger to self or others and lacks judgmental capacity
3 due to either of the following:

4 (1) A substance-related disorder as defined in
5 section 125.2.

6 (2) A serious mental impairment as defined in
7 section 229.1.

8 b. State any other pertinent facts in support of
9 each belief described in paragraph "a".

10 c. Be accompanied by any of the following:

11 (1) A written statement of a licensed physician in
12 support of the application.

13 (2) One or more supporting affidavits otherwise
14 corroborating the application.

15 (3) Corroborative information obtained and reduced
16 to writing by the clerk or the clerk's designee, but
17 only when circumstances make it infeasible to comply
18 with, or when the clerk considers it appropriate to
19 supplement the information supplied pursuant to, either
20 subparagraph (1) or (2).

21 2- 3. Prior to the filing of an application
22 pursuant to this section, the clerk or the clerk's
23 designee shall inform the interested person referred
24 to in subsection 1 about the option of requesting a
25 preapplication screening assessment pursuant to section
26 229.5A.

27 4. The supreme court shall prescribe rules
28 and establish forms as necessary to carry out the
29 provisions of this section.

30 Sec. 30. Section 229.6A, subsection 1, Code 2013,
31 is amended to read as follows:

32 1. Notwithstanding section 229.11, the juvenile
33 court has exclusive original jurisdiction in
34 proceedings concerning a minor for whom an application
35 for involuntary admission is filed under section 229.6
36 or for whom an application for voluntary admission
37 is made under section 229.2, subsection 1, to which
38 the minor objects. In proceedings under this chapter
39 concerning a minor, notwithstanding section 229.11, the
40 term "court", "judge", or "clerk" means the juvenile
41 court, judge, or clerk.

42 Sec. 31. Section 229.7, Code 2013, is amended to
43 read as follows:

44 **229.7 Service of notice upon respondent.**

45 Upon the filing of an application for involuntary
46 hospitalization pursuant to section 229.6, the clerk
47 shall docket the case and immediately notify a district
48 court judge, district associate judge, or magistrate
49 who is admitted to the practice of law in this state,
50 who shall review the application and accompanying

1 documentation. If the application is adequate as to
2 form, the court may set a time and place for a hearing
3 on the application, if feasible, but the hearing shall
4 not be held less than forty-eight hours after notice
5 to the respondent unless the respondent waives such
6 minimum prior notice requirement. The court shall
7 direct the clerk to send copies of the application
8 and supporting documentation, together with a notice
9 informing the respondent of the procedures required by
10 this chapter, to the sheriff or the sheriff's deputy
11 for immediate service upon the respondent. If the
12 respondent is taken into custody under section 229.11,
13 service of the application, documentation and notice
14 upon the respondent shall be made at the time the
15 respondent is taken into custody.

16 Sec. 32. Section 229.8, unnumbered paragraph 1,
17 Code 2013, is amended to read as follows:

18 As soon as practicable after the filing of an
19 application ~~for involuntary hospitalization~~ pursuant to
20 section 229.6, the court shall:

21 Sec. 33. Section 229.9, Code 2013, is amended to
22 read as follows:

23 **229.9 Respondent's attorney informed.**

24 The court shall direct the clerk to furnish at
25 once to the respondent's attorney copies of the
26 application ~~for involuntary hospitalization of the~~
27 respondent filed pursuant to section 229.6 and the
28 supporting documentation, and of the court's order
29 issued pursuant to section 229.8, subsection 3. If the
30 respondent is taken into custody under section 229.11,
31 the attorney shall also be advised of that fact. The
32 respondent's attorney shall represent the respondent
33 at all stages of the proceedings, and shall attend the
34 hospitalization hearing.

35 Sec. 34. Section 229.21, subsection 2, Code 2013,
36 is amended to read as follows:

37 2. When an application for involuntary
38 hospitalization ~~under this chapter or an application~~
39 for involuntary commitment or treatment of persons with
40 substance-related disorders under ~~sections~~ section
41 229.6 or 125.75 to 125.94 is filed with the clerk of
42 the district court in any county for which a judicial
43 hospitalization referee has been appointed, and no
44 district judge, district associate judge, or magistrate
45 who is admitted to the practice of law in this state
46 is accessible, the clerk shall immediately notify the
47 referee in the manner required by section 229.7 or
48 section 125.77. The referee shall discharge all of
49 the duties imposed upon the court by sections 229.7 to
50 229.22 or sections 125.75 to 125.94 in the proceeding

1 so initiated. Subject to the provisions of subsection
2 4, orders issued by a referee, in discharge of duties
3 imposed under this section, shall have the same force
4 and effect as if ordered by a district judge. However,
5 any commitment to a facility regulated and operated
6 under chapter 135C shall be in accordance with section
7 135C.23.

8 Sec. 35. Section 229.22, subsection 3, Code 2013,
9 is amended to read as follows:

10 3. The chief medical officer of the facility or
11 hospital shall examine and may detain and care for
12 the person taken into custody under the magistrate's
13 order for a period not to exceed forty-eight hours from
14 the time such order is dated, excluding Saturdays,
15 Sundays and holidays, unless the order is sooner
16 dismissed by a magistrate. The facility or hospital
17 may provide treatment which is necessary to preserve
18 the person's life, or to appropriately control behavior
19 by the person which is likely to result in physical
20 injury to the person's self or others if allowed to
21 continue, but may not otherwise provide treatment to
22 the person without the person's consent. The person
23 shall be discharged from the facility or hospital and
24 released from custody not later than the expiration of
25 that period, unless an application ~~for the person's~~
26 ~~involuntary hospitalization~~ is sooner filed with
27 the clerk pursuant to section 229.6. Prior to such
28 discharge the facility or hospital shall, if required
29 by this section, notify the law enforcement agency
30 requesting such notification about the discharge of
31 the person. The law enforcement agency shall retrieve
32 the person no later than six hours after notification
33 from the facility or hospital but in no circumstances
34 shall the detention of the person exceed the period
35 of time prescribed for detention by this subsection.
36 The detention of any person by the procedure and not
37 in excess of the period of time prescribed by this
38 section shall not render the peace officer, physician,
39 facility, or hospital so detaining that person liable
40 in a criminal or civil action for false arrest or
41 false imprisonment if the peace officer, physician,
42 facility, or hospital had reasonable grounds to believe
43 the person so detained was mentally ill and likely to
44 physically injure the person's self or others if not
45 immediately detained, or if the facility or hospital
46 was required to notify a law enforcement agency by this
47 section, and the law enforcement agency requesting
48 notification prior to discharge retrieved the person no
49 later than six hours after the notification, and the
50 detention prior to the retrieval of the person did not

1 exceed the period of time prescribed for detention by
2 this subsection.

3 Sec. 36. Section 229.24, subsection 1, Code 2013,
4 is amended to read as follows:

5 1. All papers and records pertaining to any
6 involuntary hospitalization or application ~~for~~
7 ~~involuntary hospitalization pursuant to section 229.6~~
8 of any person under this chapter, whether part of the
9 permanent record of the court or of a file in the
10 department of human services, are subject to inspection
11 only upon an order of the court for good cause shown.

12 Sec. 37. Section 229.27, subsection 2, Code 2013,
13 is amended to read as follows:

14 2. The applicant may, in initiating a petition ~~for~~
15 ~~involuntary hospitalization of a person~~ under section
16 229.6 or at any subsequent time prior to conclusion
17 of the involuntary hospitalization proceeding, also
18 petition the court for a finding that the person is
19 incompetent by reason of mental illness. The test
20 of competence for the purpose of this section shall
21 be whether the person possesses sufficient mind to
22 understand in a reasonable manner the nature and effect
23 of the act in which the person is engaged; the fact
24 that a person is mentally ill and in need of treatment
25 for that illness but because of the illness lacks
26 sufficient judgment to make responsible decisions with
27 respect to the person's hospitalization or treatment
28 does not necessarily mean that that person is incapable
29 of transacting business on any subject.

30 Sec. 38. Section 602.1209, subsection 16, Code
31 2013, is amended to read as follows:

32 16. Prescribe practices and procedures for the
33 implementation of the preapplication screening
34 assessment program referred to in ~~section~~ sections
35 125.75A and 229.5A.

36 Sec. 39. REPEAL. Sections 125.75B and 229.2A, Code
37 2013, are repealed.

38 Sec. 40. STUDY — BED AVAILABILITY TRACKING
39 SYSTEM. The department of human services shall
40 conduct a study regarding the possible development
41 of a hospital bed tracking system in order to most
42 efficiently and effectively serve the needs of persons
43 suffering from mental illness. The department shall
44 submit a report of the study and make recommendations
45 to the governor and the general assembly by December
46 16, 2013.

47 DIVISION III

48 DEPARTMENT OF HUMAN RIGHTS RESPONSIBILITY FOR MENTAL

49 HEALTH ADVOCATES

50 Sec. 41. NEW SECTION. 216A.171 Definitions.

1 As used in this subchapter, unless the context
2 otherwise requires:

3 1. "Administrator" means the administrator of the
4 office of mental health advocate of the department of
5 human rights.

6 2. "Office" means the office of mental health
7 advocate of the department of human rights.

8 Sec. 42. NEW SECTION. 216A.172 Duties of
9 administrator.

10 The administrator shall administer the office's
11 conduct of the mental health advocate program as
12 provided by section 229.19 and other applicable law.
13 The administrator's duties may include but are not
14 limited to all of the following:

15 1. Appointing persons to serve as mental health
16 advocates and other office staff and identifying
17 qualifications for persons serving as a mental health
18 advocate. The minimum qualifications for a mental
19 health advocate whose initial appointment commences on
20 or after July 1, 2013, shall be a bachelor's degree
21 from an accredited school, college, or university in
22 social work, counseling, human services, health, or
23 nursing and one year of experience in the provision of
24 mental health services. A person who is a licensed
25 registered nurse pursuant to chapter 152 who is current
26 with applicable continuing education requirements
27 shall be deemed to have met the minimum experience
28 requirement.

29 2. Training and supervising office staff.

30 3. Implementing procedures for appointing,
31 dismissing, and supervising advocates.

32 4. Administering program additions and expansions,
33 including providing advocate services for persons with
34 a substance-related disorder and persons found not
35 guilty by reason of insanity, if such additions or
36 expansions are authorized and funded.

37 5. Developing and implementing a case weight system
38 for use in appointing and compensating advocates.

39 6. Administering case reviews and audits.

40 Sec. 43. TRANSITION.

41 1. The department of human rights shall commence
42 organizational activities during the fiscal year
43 beginning July 1, 2013, as necessary to fully implement
44 this division and assume responsibility for mental
45 health advocates as provided in this division and
46 division II of this Act on July 1, 2014.

47 2. If necessary for the purposes of subsection
48 1, the department of human rights may adopt emergency
49 rules under section 17A.4, subsection 3, and section
50 17A.5, subsection 2, paragraph "b", to implement the

1 provisions of division II of this Act on July 1, 2014,
2 and the rules shall be effective immediately upon
3 filing unless a later date is specified in the rules.
4 Any rules adopted in accordance with this section shall
5 also be published as a notice of intended action as
6 provided in section 17A.4.

7 DIVISION IV

8 IMPLEMENTATION — MENTAL HEALTH ADVOCATES

9 Sec. 44. Section 225C.4, subsection 1, paragraph m,
10 Code 2013, is amended to read as follows:

11 *m.* Provide consultation and technical assistance to
12 ~~patients'~~ mental health advocates appointed pursuant
13 to section 229.19, in cooperation with the judicial
14 branch and the department of human rights, and to the
15 resident advocate committees appointed for health care
16 facilities pursuant to section 135C.25.

17 Sec. 45. Section 226.31, Code 2013, is amended to
18 read as follows:

19 **226.31 Examination by court — notice.**

20 Before granting the order authorized in section
21 226.30 the court or judge shall investigate the
22 allegations of the petition and before proceeding to a
23 hearing on the allegations shall require notice to be
24 served on the attorney who represented the patient in
25 any prior proceedings under sections 229.6 to 229.15
26 ~~or the~~ and to any mental health advocate appointed for
27 the patient under section 229.19, or in the case of a
28 patient who entered the hospital voluntarily, on any
29 relative, friend, or guardian of the person in question
30 of the filing of the application. At the hearing the
31 court or judge shall appoint a guardian ad litem for
32 the person, if the court or judge deems such action
33 necessary to protect the rights of the person. The
34 guardian ad litem shall be a practicing attorney.

35 Sec. 46. Section 229.2, subsection 1, paragraph
36 b, subparagraph (6), Code 2013, is amended to read as
37 follows:

38 (6) Upon approval of the admission of a minor
39 over the minor's objections, the juvenile court shall
40 notify the office of mental health advocate of the
41 department of human rights and the office shall appoint
42 an individual to act as an the mental health advocate
43 representing the interests of for the minor in the
44 same manner as an advocate representing the interests
45 of patients involuntarily hospitalized pursuant to in
46 accordance with section 229.19.

47 Sec. 47. Section 229.9A, Code 2013, is amended to
48 read as follows:

49 **229.9A Advocate mental health advocate informed —**
50 **hearings.**

1 The court shall direct the clerk to furnish
2 the office of the mental health advocate of the
3 ~~respondent's county of legal settlement designated~~
4 ~~for the court by the department of human rights with~~
5 ~~a copy of application and any order issued pursuant~~
6 ~~to section 229.8, subsection 3. The mental health~~
7 ~~advocate designated for the court may attend the~~
8 ~~hospitalization any court hearing of any involving the~~
9 ~~respondent for whom the advocate has received notice of~~
10 ~~a hospitalization hearing.~~

11 Sec. 48. Section 229.12, subsection 2, Code 2013,
12 is amended to read as follows:

13 2. All persons not necessary for the conduct of
14 the proceeding shall be excluded, except that the
15 court may admit persons having a legitimate interest
16 in the proceeding and shall permit the mental health
17 ~~advocate from the respondent's county of legal~~
18 ~~settlement designated for the court by the department~~
19 ~~of human rights to attend the hearing. Upon motion~~
20 ~~of the county attorney, the judge may exclude the~~
21 ~~respondent from the hearing during the testimony of~~
22 ~~any particular witness if the judge determines that~~
23 ~~witness's testimony is likely to cause the respondent~~
24 ~~severe emotional trauma.~~

25 Sec. 49. Section 229.14A, subsection 1, Code 2013,
26 is amended to read as follows:

27 1. With respect to a chief medical officer's
28 report made pursuant to section 229.14, subsection 1,
29 paragraph "b", "c", or "d", or any other provision of
30 this chapter related to involuntary commitment for
31 which the court issues a placement order or a transfer
32 of placement is authorized, the court shall provide
33 notice to the respondent, ~~and~~ the respondent's attorney
34 ~~or~~, and any mental health advocate appointed for the
35 respondent pursuant to section 229.19 concerning the
36 placement order and the respondent's right to request
37 a placement hearing to determine if the order for
38 placement or transfer of placement is appropriate.

39 Sec. 50. Section 229.14A, subsection 5, paragraph
40 c, Code 2013, is amended to read as follows:

41 c. If the respondent's attorney has withdrawn
42 ~~pursuant to section 229.19~~, the court shall appoint an
43 attorney for the respondent in the manner described in
44 section 229.8, subsection 1.

45 Sec. 51. Section 229.15, subsection 6, Code 2013,
46 is amended to read as follows:

47 6. Upon receipt of any report required or
48 authorized by this section the court shall furnish a
49 copy to the patient's attorney, ~~or alternatively and~~
50 to the mental health advocate appointed as ~~required~~

1 ~~by section 229.19 for the patient.~~ The court shall
2 examine the report and take the action thereon which
3 it deems appropriate. Should the court fail to
4 receive any report required by this section or section
5 229.14 at the time the report is due, the court shall
6 investigate the reason for the failure to report and
7 take whatever action may be necessary in the matter.

8 Sec. 52. Section 229.19, Code 2013, is amended to
9 read as follows:

10 **229.19 Advocates Mental health advocates — duties**
11 **— compensation — state and county liability.**

12 1. ~~a.~~ In each county with a population of three
13 hundred thousand or more inhabitants the board of
14 supervisors shall appoint an individual who has
15 demonstrated by prior activities an informed concern
16 for the welfare and rehabilitation of persons with
17 mental illness, and who is not an officer or employee
18 of the department of human services nor of any agency
19 or facility providing care or treatment to persons with
20 mental illness, to act as an advocate representing
21 the interests of patients involuntarily hospitalized
22 by the court, in any matter relating to the patients'
23 hospitalization or treatment under section 229.14 or
24 229.15. In each county with a population of under
25 three hundred thousand inhabitants, the chief judge
26 of the judicial district encompassing the county
27 shall appoint the advocate. For the purposes of this
28 section, "office" means the office of mental health
29 advocate of the department of human rights.

30 ~~b.~~ The court or, if the advocate is appointed by
31 the county board of supervisors, the board shall assign
32 the advocate appointed from a patient's county of legal
33 settlement to represent the interests of the patient.
34 If a patient has no county of legal settlement, the
35 court or, if the advocate is appointed by the county
36 board of supervisors, the board shall assign the
37 advocate appointed from the county where the hospital
38 or facility is located to represent the interests of
39 the patient.

40 ~~c.~~ The advocate's responsibility with respect to
41 any patient shall begin at whatever time the attorney
42 employed or appointed to represent that patient as
43 respondent in hospitalization proceedings, conducted
44 under sections 229.6 to 229.13, reports to the court
45 that the attorney's services are no longer required and
46 requests the court's approval to withdraw as counsel
47 for that patient. However, if

48 b. If the patient is found to be seriously mentally
49 impaired at the hospitalization hearing, the attorney
50 representing the patient shall automatically be

1 ~~relieved of responsibility in the case and an a mental~~
2 ~~health advocate shall be assigned to appointed for~~
3 ~~the patient at the conclusion of the hearing unless~~
4 ~~the attorney indicates an intent to continue the~~
5 ~~attorney's services and.~~ The court shall notify the
6 office of the court's finding and the office shall
7 appoint an advocate for the patient. The advocate's
8 responsibility with respect to a patient shall begin
9 when the advocate is appointed for the patient. The
10 attorney representing the patient shall automatically
11 be relieved of responsibility at the conclusion of
12 the hearing unless the attorney requests to continue
13 representation and the court so directs authorizes the
14 attorney to remain on the case. If the court directs
15 the attorney to remain on the case, the attorney shall
16 ~~assume all the duties of an advocate~~ cooperate with
17 the advocate appointed for the patient. The clerk
18 shall furnish the advocate with a copy of the court's
19 order approving the withdrawal or continuation of the
20 attorney and shall inform the patient of the name of
21 the patient's advocate.

22 ~~d. c.~~ With regard to each patient whose interests
23 the for whom a mental health advocate is required to
24 represent appointed pursuant to this section, the
25 advocate's duties shall include all of the following:

26 (1) To review each report submitted pursuant to
27 sections 229.14 and 229.15.

28 (2) ~~If the advocate is not an attorney, to To~~
29 advise the court at any time it appears that the
30 services of an attorney are required to properly
31 safeguard the patient's interests.

32 (3) To be readily accessible to communications from
33 the patient and to originate communications with the
34 patient within five days of the patient's commitment.

35 (4) To visit the patient within fifteen days of the
36 patient's commitment and periodically thereafter.

37 (5) To communicate with medical personnel treating
38 the patient and to review the patient's medical records
39 pursuant to section 229.25.

40 (6) To file with the court and the office quarterly
41 reports, and additional reports as the advocate feels
42 necessary or as required by the court office, in a form
43 prescribed by the court office. The reports shall
44 state what actions the advocate has taken with respect
45 to each patient and the amount of time spent.

46 (7) To utilize the related best practices for the
47 duties identified in this paragraph "d" "c" developed
48 and promulgated by the judicial council.

49 ~~e. d.~~ An Subject to the availability of funding
50 appropriated for this purpose, a mental health advocate

1 may also be appointed pursuant to this section for an
2 individual who has been diagnosed with a co-occurring
3 mental illness and ~~substance-related~~ substance-related
4 disorder.

5 2. The hospital or facility to which a patient is
6 committed shall grant all reasonable requests of the
7 patient's mental health advocate to visit the patient,
8 to communicate with medical personnel treating the
9 patient, and to review the patient's medical records
10 pursuant to section 229.25. An advocate shall not
11 disseminate information from a patient's medical
12 records to any other person unless done for official
13 purposes in connection with the advocate's duties
14 pursuant to this chapter or when required by law.

15 3. ~~The court or, if the advocate is appointed by~~
16 ~~the county board of supervisors, the board office shall~~
17 ~~prescribe provide~~ reasonable compensation for the
18 services of the advocate in accordance with section
19 216A.172. ~~The compensation shall be based upon the~~
20 ~~reports filed by the advocate with the court. The~~
21 ~~advocate's compensation shall be paid by the county~~
22 ~~in which the court is located, either on order of the~~
23 ~~court or, if the advocate is appointed by the county~~
24 ~~board of supervisors, on the direction of the board.~~
25 ~~If the advocate is appointed by the court, the advocate~~
26 ~~is an employee of the state for purposes of chapter~~
27 ~~669. If the advocate is appointed by the county~~
28 ~~board of supervisors, the advocate is an employee~~
29 ~~of the county for purposes of chapter 670. If the~~
30 ~~patient or the person who is legally liable for the~~
31 ~~patient's support is not indigent, the board office~~
32 ~~shall recover the costs of compensating the advocate~~
33 ~~from that person. If that person has an income level~~
34 ~~as determined pursuant to section 815.9 greater than~~
35 ~~one hundred percent but not more than one hundred~~
36 ~~fifty percent of the poverty guidelines, at least~~
37 ~~one hundred dollars of the advocate's compensation~~
38 ~~shall be recovered in the manner prescribed by the~~
39 ~~county board of supervisors. If that person has~~
40 ~~an income level as determined pursuant to section~~
41 ~~815.9 greater than one hundred fifty percent of the~~
42 ~~poverty guidelines, at least two hundred dollars of~~
43 ~~the advocate's compensation shall be recovered in~~
44 ~~substantially the same manner prescribed by the county~~
45 ~~board of supervisors as provided in section 815.9.~~

46 Sec. 53. Section 229.25, subsection 1, paragraph
47 a, subparagraph (1), Code 2013, is amended to read as
48 follows:

49 (1) The information is requested by a licensed
50 physician, attorney, or the mental health advocate

1 ~~who provides~~ appointed for the person. The requester
2 ~~must provide~~ the chief medical officer with a written
3 ~~waiver signed~~ by the person about whom the information
4 is sought.

5 Sec. 54. TRANSITION OF EMPLOYEE RIGHTS OF FORMER
6 COUNTY EMPLOYEES.

7 1. If appointed by the administrator of the office
8 of mental health advocate of the department of human
9 rights pursuant to section 216A.172, county employees
10 paid for mental health advocate services under section
11 229.19 shall become employees of the department of
12 human rights effective July 1, 2014, and the department
13 shall assume all costs associated with the functions
14 of the employees on that date. Employees who were
15 paid salaries by the counties immediately prior to
16 becoming state employees as a result of this Act shall
17 not forfeit accrued vacation, accrued sick leave, or
18 benefits related to longevity of service, except as
19 provided in this section.

20 2. The department of human rights, after consulting
21 with the department of administrative services, shall
22 adopt rules to provide for the following:

23 a. A person referred to in subsection 1 shall have
24 to the person's credit as a state employee commencing
25 on the date of becoming a state employee the number of
26 accrued vacation days that was credited to the person
27 as a county employee as of the end of the day prior to
28 becoming a state employee.

29 b. Each person referred to in subsection 1 shall
30 have to the person's credit as a state employee
31 commencing on the date of becoming a state employee the
32 number of accrued days of sick leave that was credited
33 to the person as a county employee as of the end of the
34 day prior to becoming a state employee. However, the
35 number of days of sick leave credited to a person under
36 this subsection and eligible to be taken when sick
37 or eligible to be received upon retirement shall not
38 respectively exceed the maximum number of days, if any,
39 or the maximum dollar amount as provided in section
40 70A.23 that state employees generally are entitled to
41 accrue or receive according to rules in effect as of
42 the date the person becomes a state employee.

43 c. Commencing on the date of becoming a state
44 employee, each person referred to in subsection 1 is
45 entitled to claim the person's most recent continuous
46 period of service in full-time county employment as
47 full-time state employment for purposes of determining
48 the number of days of vacation which the person is
49 entitled to earn each year. The actual vacation
50 benefit, including the limitation on the maximum

1 accumulated vacation leave, shall be determined
2 as provided in section 70A.1 according to rules in
3 effect for state employees of comparable longevity,
4 irrespective of any greater or lesser benefit as a
5 county employee.

6 3. Persons referred to in subsection 1 who were
7 covered by county employee life insurance and accident
8 and health insurance plans prior to becoming state
9 employees in accordance with this section shall be
10 permitted to apply prior to becoming state employees
11 for life insurance and health and accident insurance
12 plans that are available to state employees so that
13 those persons do not suffer a lapse of insurance
14 coverage as a result of this section. The department
15 of human rights, after consulting with the department
16 of administrative services, shall prescribe rules and
17 distribute application forms and take other actions
18 as necessary to enable those persons to elect to
19 have insurance coverage that is in effect on the date
20 of becoming state employees. The actual insurance
21 coverage available to a person shall be determined
22 by the plans that are available to state employees,
23 irrespective of any greater or lesser benefits that may
24 have been available to the person as a county employee.

25 4. Commencing on the date of becoming a state
26 employee, each person referred to in subsection 1 is
27 entitled to claim the person's most recent continuous
28 period of service in full-time county employment as
29 full-time state employment for purposes of determining
30 disability benefits as provided in section 70A.20
31 according to rules in effect for state employees of
32 comparable longevity, irrespective of any greater or
33 lesser benefit that may have been available to the
34 person as a county employee.

35 Sec. 55. EFFECTIVE DATE. This division of this Act
36 takes effect July 1, 2014.>

M. SMITH of Marshall